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FEDERAL ELECTION COMMISSION

OCT 27 2017 7: 52

October 27, 2017 *** CORRECTED ***

CELA

Christopher O. Murray
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cmurray@bhfs.com

Via E-mail (to CELA@fec.gov)

Federal Election Commission
Office of Complaints Examination and Legal Administration
Attn: Mr. Jeffrey Jordan
999 E. Street N.W.
Washington, D.C. 20463

RE: RR 17L-19 (Colorado Republican Committee)

Dear Mr. Jordan:

This firm represents the Colorado Republican Committee ("CRC"). This letter is in response to your letter to me of October 13, 2017 regarding the above-referenced referral from the Reports Analysis Division ("RAD").

CRC Response to RAD Referral

The referral concerns the CRC's 2016 12 Day Pre-General Report, originally submitted October 27, 2016. The report covered the period from October 1 through October 19, 2016. The report as originally submitted failed to include a transfer of \$132,560.00 from the Republican National Committee ("RNC") received on October 3, 2016. This error was inadvertent; the transfer was missed until a bank account reconciliation was performed by the CRC's Treasurer and checked against the 12 Day Pre-General Report. Upon discovering the error, the CRC requested its accountant Michael McCauley submit an amendment to the 12 Day Pre-General Report. This was accomplished on January 31, 2017.

Your letter encloses a copy of a July 21, 2017 memorandum from the RAD to the Alternative Dispute Resolution ("ADR") office. This memorandum alleges that after the CRC submitted the January 31, 2017 amendment, a Request for Additional Information ("RFAI") requesting clarification regarding the amendment was sent to the CRC on April 16 2017. The memorandum further alleges that no response to the RFAI was received by the RAD until June 22, 2017; after an Analyst called Mr. McCauley three separate times: on June 5, June 15 and June 21, 2017. The CRC shared this memorandum with Mr. McCauley. Mr. McCauley has a significantly different recollection of how he learned of the RFAI and came to submit the response to the RAD. An affidavit from Mr. McCauley detailing his recollection is attached to this letter. Importantly, according to Mr. McCauley, it was not the RAD that reached out to him about the RFAI in June, 2017, but it was he who discovered the RFAI along with two others of the same date and then reached out to the RAD.

Mr. McCauley recalls that he never received the RFAI at issue in this referral—which was actually one of three separate RFAIs to the CRC dated on April 16, 2017—from the RAD, but rather discovered it when he performed an occasional, but routine check for outstanding issues in the CRC's file. McCauley Aff. ¶¶ 7-8. Upon discovering three outstanding RFAIs, Mr. McCauley recalls that he telephoned the RAD with a

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main 303.223.1100

question about how to respond to one of them which seemed to require an amendment to the CRC's Statement of Organization (Form 1) to disclose a closed joint fundraising committee (this is not the RFAI at issue in this referral). *Id.* at ¶ 9. Mr. McCauley did not speak with the CRC's regular Analyst, but another person. *Id.* at ¶ 13(a). This Analyst told him she would call him back with an answer to his question. *Id.* at ¶¶ 9, 13(a). After receiving this call back, he was instructed not to amend the CRC's Form 1, but to instead file a Form 99 stating that the joint fundraising committee was closed. *Id.* at ¶ 9. He provided responses to the other two RFAs. *Id.* at ¶ 11. He responded to the one at issue here on June 22, 2017 with another Form 99. *Id.*

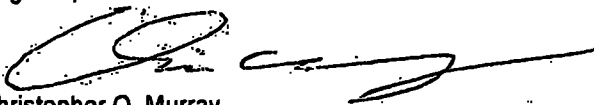
The CRC takes RFAs from the RAD seriously and would never deliberately delay in responding to one. Given Mr. McCauley's recollection regarding the circumstances surrounding the CRC's response to the RFAI at issue here, the date of the CRC's response should not be held against it.

Request to Referral Back to ADR

All of the foregoing said, the CRC does not dispute that its 12 Day Pre-General Report was in error and the amendment submitted on January 31, 2017 was necessary in order to correct it. Given the relative simplicity of this matter, the CRC believes it is appropriate for ADR and requests that it be returned to the ADR office for resolution. The CRC would be pleased to have this matter consolidated there with AR 17-05 as mentioned in my letter of October 13, 2017.

Thank you for the opportunity to provide this response, I look forward to working with you to bring this matter to resolution.

Regards,



Christopher O. Murray

cc. Donna Rawls, Federal Election Commission
Jeff Hays, Colorado Republican Committee

Enclosure

State of Utah)
)
County of Salt Lake)

**AFFIDAVIT OF MICHAEL MCCAULEY
IN SUPPORT OF COLORADO REPUBLICAN COMMITTEE'S RESPONSE
TO RR17L-19**

I, Michael McCauley, being first duly sworn, depose and state as follows:

1. I am a citizen of the United States and have been since my birth. I am an adult over the age of 18 and a resident of Utah.

2. I am an accountant and the principal of McCauley & Associates, Inc., a firm I have operated since May, 2005. I have served as the accountant and/or treasurer to dozens of federal political party and candidate committees and have prepared hundreds, if not thousands of submissions to the Federal Election Commission ("FEC").

3. I serve as the accountant for the Colorado Republican Committee ("CRC"). I have served as the CRC accountant since the CRC retained my firm in March, 2012.

4. In my role as CRC accountant, I prepare all regular CRC submissions to the Federal Election Commission ("FEC") and file these on the CRC's behalf. I also routinely interact with Analysts from the FEC's Reports Analysis Division ("RAD").

5. Consistent with these responsibilities, I prepared and submitted the CRC's 12 Day Pre-General Report submitted on October 27, 2016. This report covered the period of October 1, 2016 through October 19, 2016.

6. Also consistent with these responsibilities, I prepared and submitted the CRC's amended 12 Day Pre-General Report submitted on January 31, 2017. This amendment was necessary because a bank reconciliation revealed that a transfer from the Republican National Committee ("RNC") in the amount of \$132,560.00 made on October 3, 2017 had been omitted from the records on which I based the original 12 Day Pre-General Report submitted on October 27, 2016.

7. As part of my services to the CRC, I occasionally check the FEC website for outstanding issues. I do this because I have had experiences where FEC communications for other clients have failed to come through over e-mail or are received weeks after they are sent.

8. As a result of one such check in late May or early June 2017, I noticed that a Request for Additional Information ("RFAI") regarding the January 31, 2017 amended 12 Day Pre-General Report had been issued. Indeed, during the same check, I discovered two additional RFAIs to the CRC, one regarding the CRC's amended 30 Day Post-General report and another regarding the CRC's Year-End Report. All three RFAIs were dated April 16, 2017, copies of all three are attached to this Affidavit. I did not receive these RFAIs in April, 2017. Indeed, prior to discovering these RFAIs on the FEC's website, I had never seen or heard about any of them. I was not surprised by this; in my experience working with the RAD, it is not uncommon that RFAIs are not always e-mailed to me. This is why I occasionally check the FEC website.

9. After discovering these RFAIs, I contacted the RAD regarding one of them—the RFAI dealing with the Year End Report. I specifically remember asking an Analyst whether the RAD really wanted the CRC to amend its Statement of Organization ("Form 1") to disclose the Glenn Victory Fund as a Joint Fundraising Committee, which by that time had been closed. I remember that the Analyst told me that she could not answer my question and would need to call me back. At some point a few days later, she did call me back and stated that because the Glenn Victory Fund was indeed closed out, I should not amend the CRC's Form 1 in response to that RFAI, but should instead submit a Form 99.

10. I do not recall this Analyst's name. I am certain however, that at no point during my conversations with her did the subject of the CRC's amended 12 Day Pre-General Report come up.

11. I responded to the RFAI regarding the amended 12 Day Pre-General Report on the CRC's behalf on June 22, 2017 by filing a Form 99 which stated as follows:

We are in receipt of your letter dated April 16, 2017 regarding our amended 12 Day Pre General Report in which our receipts increased by \$132,560 from the originally filed report. This increase is a result of a

transfer made from the RNC that was not included in the financial records of the party until a bank reconciliation was performed. That reconciliation, performed in the normal course of business at the end of the month, was after the reporting period, making the amendment necessary.

12. On October 13, 2017, I learned that the RAD had referred the issue of the CRC's amended 12 Day Pre-General Report and response to the related RFAI for potential enforcement action. I have since reviewed the notification letter and the enclosed RAD referral memorandum to the FEC's Alternative Dispute Resolution Office ("ADRO") dated July 21, 2017.

13. The ADRO referral memorandum contains two paragraphs that are factually inaccurate:

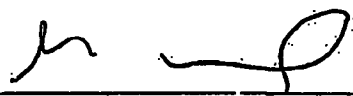
a. The fifth paragraph of the ADRO referral memorandum states that a RAD Analyst called me on June 5, 2017 and had a conversation with me in which the Analyst (1) alerted me to the failure to respond to the April 16, 2017 RFAI regarding the CRC's amended 12 Day Pre-General Report (2) told me that the increase in activity reported on the amended 12 Day Pre-General Report could be referred for enforcement action, and (3) advised me the CRC should respond to the RFAI regarding that amendment within a week after I allegedly told the Analyst I had been travelling. As stated above, I received exactly one telephone call from an Analyst in June, 2017. I was not travelling in that month. The Analyst who works on CRC matters is Laura Sinram. I had no conversation with her in June 2017. The Analyst listed on the ADRO referral memorandum is Kaitlin Seufert. I am not familiar with Ms. Seufert. It is possible that she is the Analyst I reached when I called the RAD after I discovered the RFAs. It is also possible that she is the Analyst who called me back with regard to the Glenn Victory Fund Form 1, as the person who called me back was the same Analyst who I had spoken with when I called.

b. The sixth paragraph of the ADRO referral memorandum states that the same RAD Analyst spoke with me again on June 15 and June 21, 2017 and that "among other issues" the Analyst reminded me that the CRC had not yet responded to the RFAI regarding its amended 12 Day Pre-General Report and encouraged me to file as soon as possible. As I state above, I made one call to the RAD and received one call back.

Neither was regarding the RFAI on the CRC's amended 12 Day Pre-General Report. I have received no telephone call or other correspondence from the FEC regarding the CRC's amended 12 Day Pre-General Report other than the April 16, 2017 RFAI which I discovered myself online (and never received via mail or e-mail).

14. To be absolutely clear, I received no phone call from any Analyst with the RAD regarding the CRC's amended 12 Day Pre-General Report or the RFAI dated April 16, 2017 relating to it. I prepared the CRC's response to this RFAI after myself discovering it online. I did contact the RAD about a different RFAI also dated April 16, 2017, but only after similarly discovering that RFAI myself. Until the CRC forwarded me the October 13, 2017 notice of referral regarding RR17L-19, I had not heard of any issue with the CRC's response to the RFAI dated April 16, 2017. I am surprised by the allegations contained in paragraphs five and six of the ADRO referral memorandum; I hope my testimony here will help set the record straight.

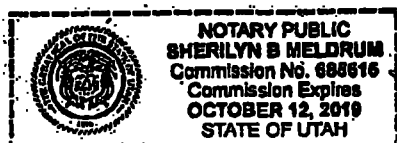
I declare under penalty of perjury under the laws of the United States and Colorado Law that the foregoing is true and correct to the best of my knowledge.


Michael McCauley

SUBSCRIBED AND SWORN TO BEFORE ME this 27th of October, 2017 by Michael McCauley. *mm*

State of: UTAH
County of: SALT LAKE

Witness my hand and official seal:




Notary Public

My Commission expires: 10/12/19



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

RQ-2

April 16, 2017

MARTY NEILSON, TREASURER
COLORADO REPUBLICAN COMMITTEE
5950 S. WILLOW DRIVE SUITE 302
GREENWOOD VILLAGE, CO 80111

Response Due Date
05/22/2017

IDENTIFICATION NUMBER: C00033134

REFERENCE: AMENDED 12 DAY PRE-GENERAL REPORT (10/01/2016 -
10/19/2016), RECEIVED 01/31/2017

Dear Treasurer:

This letter is prompted by the Commission's preliminary review of the report referenced above. This notice requests information essential to full public disclosure of your federal election campaign finances. Failure to adequately respond by the response date noted above could result in an audit or enforcement action. Additional information is needed for the following 1 item(s):

- Your amended report discloses an increase in receipts totaling \$132,560.00 from the amounts disclosed on your original report. Please amend your report or provide clarifying information as to why this activity was not disclosed on your original report. (11 CFR § 104.3)


Please note, you will not receive an additional notice from the Commission on this matter. Adequate responses must be received by the Commission on or before the due date noted above to be taken into consideration in determining whether audit action will be initiated. Failure to comply with the provisions of the Act may also result in an enforcement action against the committee. Any response submitted by your committee will be placed on the public record and will be considered by the Commission prior to taking enforcement action. Requests for extensions of time in which to respond will not be considered.

Electronic filers must file amendments (to include statements, designations and reports) in an electronic format and must submit an amended report in its entirety, rather than just those portions of the report that are being amended. For additional information about the report review process or specific filing information for your committee type, please visit the Reports Analysis Division's Frequently Asked Questions on the FEC website. If you should have any questions regarding this matter or wish to verify the adequacy of your response, please contact me on our toll-free number (800) 424-9530 (at the prompt press 5 to reach the Reports Analysis Division) or my local number (202) 694-1157.

COLORADO REPUBLICAN COMMITTEE

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Sincerely,

A handwritten signature in black ink that reads "Laura E. Sinrum". The signature is written in a cursive style with a large, stylized "L" and "S".

Laura Sinrum
Sr. Campaign Finance & Reviewing Analyst
Reports Analysis Division

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

RQ-2

April 16, 2017

MARTY NEILSON, TREASURER
COLORADO REPUBLICAN COMMITTEE
5950 S. WILLOW DRIVE SUITE 302
GREENWOOD VILLAGE, CO 80111

Response Due Date
05/22/2017

IDENTIFICATION NUMBER: C00033134

REFERENCE: AMENDED 30 DAY POST-GENERAL REPORT (10/20/2016 -
11/28/2016), RECEIVED 01/31/2017

Dear Treasurer:

This letter is prompted by the Commission's preliminary review of the report referenced above. This notice requests information essential to full public disclosure of your federal election campaign finances. Failure to adequately respond by the response date noted above could result in an audit or enforcement action. Additional information is needed for the following 3 item(s):

1. Schedule A of your report (see attached) discloses one or more contributions from an organization(s), which is not a political committee registered with the Commission. In order for your committee to accept contributions from unregistered organizations into accounts used to influence federal elections, your committee should take steps to insure that the contributor(s) used permissible funds to make the contribution(s) to avoid violating 52 U.S.C. § 30116(f) and 30118 (formerly 2 U.S.C. §§441a(f) and 441b) or 11 CFR §102.5(b). Under 11 CFR §102.5(b), organizations which are not political committees under the Act and choose to contribute to federal committees must either: 1) establish a separate account which contains only those funds permitted under the Act, or 2) demonstrate through a reasonable accounting method that the organization has received sufficient funds subject to the limitations and prohibitions in order to make the contribution.

If any apparently prohibited contribution in question was incompletely or incorrectly disclosed, you should amend your original report with clarifying information. In addition, please clarify whether the contribution(s) received from the referenced organization(s) is permissible.

To the extent that your committee has received prohibited funds, you may have to make a refund. If within 30 days of receipt you (1) transferred the prohibited amount to an account not used to influence federal elections, and (2) provided

COLORADO REPUBLICAN COMMITTEE

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written notice to the person making the contribution of the option of receiving a refund, you may retain the contribution in an account not used to influence federal elections. Any request from a donor for a refund must be honored.

If the foregoing conditions for transfers to a non-federal account were not met within 30 days of receipt, the prohibited amount must be refunded. (11 CFR §103.3(b)(1))

Please inform the Commission of your corrective action promptly in writing and provide a photocopy of your check for any transfer-out or refund. Should you choose to transfer-out or refund the contribution(s), the Commission will presume the funds were impermissible if no statement from your committee provides information to the contrary. Transfers-out and refunds should be disclosed on a Schedule B supporting Line 22 or 28 of the report covering the period during which the transaction was made.

Although the Commission may take further legal action concerning the acceptance of prohibited contributions, prompt action by your committee in transferring-out or refunding the amounts will be taken into consideration.

2. A review of the reports filed by your committee indicates that your committee received one or more transfers from "NRSC" which has not been disclosed on their report(s) of receipts and disbursements. Please clarify if the contribution(s) was received from the disclosed donor's federal account and amend your report(s) if necessary.

3. Schedule B supporting Line 30(b) of your report discloses a payment(s) for "Autodialer," "Autodialers," and "Direct Mail" which is categorized as Federal Election Activity and therefore, may require the disclosure of the candidate(s) this activity should be attributed to. Expenditures and disbursements for public communications that refer to a clearly identified candidate for Federal office and that promote, support, attack or oppose any candidate for Federal office, meet the definition of Federal Election Activity under 11 CFR §100.24 and should be disclosed on Schedule B for Line 30(b) along with the identity of the candidate(s).

Further, please be advised that public communications that meet the definition of Federal Election Activity and that also contain express advocacy as defined under 11 CFR §100.22, but do not meet the conditions of exempt activity, would constitute an in-kind contribution, an independent expenditure or a coordinated party expenditure and should be properly disclosed on a Schedule B, E or F supporting Lines 23, 24 or 25, as appropriate rather than on Schedule B for Line

COLORADO REPUBLICAN COMMITTEE


Page 3 of 3

30(b). Please clarify if this activity meets the definition of Federal Election Activity or if it contains express advocacy and amend your report to properly disclose this activity, if necessary.

Please note, you will not receive an additional notice from the Commission on this matter. Adequate responses must be received by the Commission on or before the due date noted above to be taken into consideration in determining whether audit action will be initiated. Failure to comply with the provisions of the Act may also result in an enforcement action against the committee. Any response submitted by your committee will be placed on the public record and will be considered by the Commission prior to taking enforcement action. Requests for extensions of time in which to respond will not be considered.

Electronic filers must file amendments (to include statements, designations and reports) in an electronic format and must submit an amended report in its entirety, rather than just those portions of the report that are being amended. For additional information about the report review process or specific filing information for your committee type, please visit the Reports Analysis Division's Frequently Asked Questions on the FEC website. If you should have any questions regarding this matter or wish to verify the adequacy of your response, please contact me on our toll-free number (800) 424-9530 (at the prompt press 5 to reach the Reports Analysis Division) or my local number (202) 694-1157.

Sincerely,



Laura Sinram
Sr. Campaign Finance & Reviewing Analyst
Reports Analysis Division

**Impermissible, Excessive, and Prohibited Contributions
Colorado Republican Committee (C00033134)**

Contribution from an Unregistered Organization

Contributor Name	Date	Amount	Report
Larimer County Republican Party	10/21/16	\$3,218.00	2016 30 Day Post General

2017-10-21 16:03:00



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

RQ-2

April 16, 2017

MARTY NEILSON, TREASURER
COLORADO REPUBLICAN COMMITTEE
5950 S. WILLOW DRIVE SUITE 302
GREENWOOD VILLAGE, CO 80111

Response Due Date
05/22/2017

IDENTIFICATION NUMBER: C00033134

REFERENCE: YEAR-END REPORT (11/29/2016 - 12/31/2016)

Dear Treasurer:

This letter is prompted by the Commission's preliminary review of the report referenced above. This notice requests information essential to full public disclosure of your federal election campaign finances. **Failure to adequately respond by the response date noted above could result in an audit or enforcement action.** Additional information is needed for the following 1 item(s):

- Schedule A, supporting Line 12 of your report discloses transfers, totaling \$12,194.00 from "Glenn Victory Fund", that appear to be received through joint fundraising efforts. However, "Glenn Victory Fund" is not disclosed as a joint fundraising representative on your Statement of Organization. Please amend your Statement of Organization to disclose the joint fundraising representative or amend your report to provide clarifying information. (11 CFR §102.2)

Please note, you will not receive an additional notice from the Commission on this matter. Adequate responses must be received by the Commission on or before the due date noted above to be taken into consideration in determining whether audit action will be initiated. Failure to comply with the provisions of the Act may also result in an enforcement action against the committee. Any response submitted by your committee will be placed on the public record and will be considered by the Commission prior to taking enforcement action. Requests for extensions of time in which to respond will not be considered.

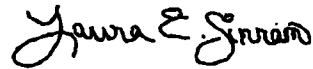
Electronic filers must file amendments (to include statements, designations and reports) in an electronic format and must submit an amended report in its entirety, rather than just those portions of the report that are being amended. For additional information about the report review process or specific filing information for your committee type, please visit the Reports Analysis Division's Frequently Asked Questions on the FEC website. If you should have any questions regarding this matter or wish to verify the adequacy of your response, please contact me on our toll-free number (800) 424-9530 (at the prompt press 5 to reach the Reports

COLORADO REPUBLICAN COMMITTEE

Page 2 of 2

Analysis Division) or my local number (202) 694-1157.

Sincerely,



Laura Sinram
Sr. Campaign Finance & Reviewing Analyst
Reports Analysis Division

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